

Order entered May 17, 2017



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-00094-CV

JEFFORY BLACKARD, Appellant

V.

**KENT A. SCHAFER, IN HIS OFFICIAL CAPACITY, BRIAN W. WICE, IN HIS
OFFICIAL CAPACITY, NICHOLE DEBORDE, IN HER OFFICIAL CAPACITY,
COLLIN COUNTY JUDGE KEITH SELF, IN HIS OFFICIAL CAPACITY,
COMMISSIONER SUSAN FLETCHER, IN HER OFFICIAL CAPACITY,
COMMISSIONER CHERYL WILLIAMS, IN HER OFFICIAL CAPACITY,
COMMISSIONER CHRIS HILL, IN HIS OFFICIAL CAPACITY, COMMISSIONER
DUNCAN WEBB, IN HIS OFFICIAL CAPACITY, AUDITOR JEFF MAY, IN HIS
OFFICIAL CAPACITY Appellees**

**On Appeal from the 380th Judicial District Court
Collin County, Texas
Trial Court Cause No. 380-00320-2017**

ORDER

This appeal arises from a suit brought by Jeffory Blackard challenging the legality of an order rendered by the 416th Judicial District Court that directs payment of attorney's fees by the Auditor of Collin County, following presentment to and approval by the Collin County Commissioners Court, to the attorneys pro tem in *State of Texas v. Warren Kenneth Paxton, Jr.*, Case Nos. 416-81913-2015, 416-82148-2015, 416-82149-2015 (the *Paxton* cases). On January 30, 2017, Blackard requested, and this Court issued, an order staying the Collin County

Commissioners Court from “any consideration or approval of the payment or payments subject to the district court’s Second Order on Payment of Attorney’s Fees to Attorneys Pro Tem.” On February 10, we consolidated appellant’s request for a stay into this appeal and ordered the stay on the commissioners court remain in place. We further stayed the Second Order on Payment of Attorney’s Fees to Attorneys Pro Tem and “all efforts to enforce and/or execute on that order.” These stays were necessary to prevent Blackard’s challenge to the payment of attorney’s fees from becoming moot. *See Blackard v. Schaffer*, No. 05-16-00408-CV, 2017 WL 343597, *6 (Tex. App.—Dallas Jan. 8, 2017, pet. filed) (challenge to fee order moot after fees paid).

Blackard asserts standing in this case as a taxpayer seeking to enjoin the illegal expenditure of public funds. *See Bland Indep. Sch. Dist. v. Blue*, 34 S.W.3d 547, 556 (Tex. 2000). Because the Commissioners Court, as a result of our stay orders, cannot consider whether public funds should be paid as directed by the Second Order on Payment of Attorney’s Fees to Attorneys Pro Tem, there is currently no approved expenditure. *See Blackard*, 2017 WL 343597, at *8. We are mindful of the necessity of preventing Blackard’s claim from being rendered moot by payment of the fees being challenged should those fees be approved.

Accordingly, we **ORDER** the stay put in place by our orders of January 30, 2017 and February 10, 2017, lifted only as to the Collin County Commissioners Court and only for the purpose of allowing the Collin County Commissioners Court to consider and act on the order directing payment of the fees made the subject of the Second Order on Payment of Attorney’s Fees to Attorneys Pro Tem. Further, Blackard is **ORDERED** to provide this Court with a supplemental clerk’s record containing evidence of the Commissioners Court vote on the issue of payment of attorney’s fees **no later than thirty days** from the date of this order. If the

Commissioners Court, however, fails to act within thirty days, this appeal will be dismissed for lack of jurisdiction. In all other respects, the stay remains in effect.

We hereby **ABATE this appeal for a period of thirty days** or until we receive the supplemental clerk's record, whichever occurs sooner.

/s/ MOLLY FRANCIS
PRESIDING JUSTICE